

REMARKS

Reconsideration and allowance of the present application in view of the foregoing amendments and the following remarks are respectfully requested.

Currently, claims 41-65, 68-108, and 110-113 remain pending including independent claims 41, 70, 83 and 113. In the latest Office Action, claims 53, 54, 96 and 97 were objected to. In response, the above claims have been amended such that the claims recite structural limitations appropriate for product claims.

In the Office Action, all of the claims continued to stand rejected under 35 U.S.C. §103 over Peterson in view of Hampl '755 and Hampl '860. In response, Applicants submit that none of the above references either alone or in combination teach a paper wrapper or a smoking article containing a paper wrapper wherein the paper wrapper has a permeability of greater than about 60 Coresta and has treated discrete areas having a permeability of less than about 25 Coresta and/or includes treated discrete areas having a BMI of less than about 5 cm⁻¹.

In the Office Action, it was admitted that Peterson does not disclose or teach a paper wrapper having a permeability of greater than about 60 Coresta. In stark contrast, Peterson specifically teaches using a wrapper having a permeability of 35 Coresta, which is significantly lower than a wrapper having a permeability of 60 Coresta.

In order to somehow cure this deficiency, the Office Action states that the wrapper used in Peterson may include any manner of commercially available cigarette wrapper and then combines Peterson with Hampl '860 which discloses paper wrappers having a permeability of from about 5 Coresta units to about 80 Coresta units.

In assessing the appropriateness of an obviousness rejection, the scope and content of the prior art, the differences between the claimed invention and the prior art, the level of ordinary skill in the pertinent art, and the objective evidence relevant to the issue of obviousness must be considered. In the present case, Hampl '860 is directed to a process for improving the ash characteristics of a smoking article and has little or nothing to do with the construction of wrapping papers having reduced ignition proclivity properties as taught in Peterson. Further, although Hampl '860 does disclose wrappers having a permeability of from 5 Coresta units to about 80 Coresta units, Hampl '860 makes clear that in most applications, even when attempting to improve ash characteristics, "the permeability

should be between about 15 Coresta units to about 55 Coresta units". The above permeability range is more consistent with the teachings of Peterson which teaches using "commercially available cigarette wrappers".

In the Office Action, the "recent KSR decision" was also cited stating that the decision forecloses the argument that a specific teaching, suggestion or motivation is required to support a finding of obviousness. KSR, however, is not a carte blanche license to render all meaningful inventions obvious based upon a tenuous relationship between multiple prior art references. In the present case, a person of ordinary skill in the art having common sense at the time of the invention would have not reasonably looked to substituting relatively high permeability papers disclosed in Hampl '860 into the constructions disclosed in Peterson, since, again, Peterson teaches using "commercially available cigarette wrapper" and Hampl teaches that in most applications the wrapper should have a permeability of less than about 55 Coresta units.

In addition, it is mere speculation to suggest that somehow replacing the wrappers disclosed in Peterson with the high permeability wrappers in Hampl '860 would somehow result in a paper wrapper or smoking article having the other defined properties (i.e. having a permeability of less than about 25 Coresta and a BMI of less than about 5cm^{-1}) as required in the currently pending claims. There is simply no suggestion to somehow replace the wrappers disclosed in Peterson with only the high permeability wrappers disclosed in Hampl '860 except from using Applicants' invention as a template through a hindsight reconstruction of Applicants' claims.

In addition, none of the references cited in the Office Action teach, suggest or disclose the advantages and improvements that have been realized by the current inventors by using wrappers having a permeability of greater than 60 Coresta.

The present inventors, for instance, have discovered that by using wrappers having a relatively high permeability, smoking articles can be formed in some embodiments that are better suited to passing various ignition tests while also not having a tendency to self-extinguish when allowed to burn in the free air.

In addition, the present inventors have also discovered that the higher permeability can be used in conjunction with the treated discrete areas while maintaining puff counts, tar delivery, and other characteristics within desired ranges.

In summary, Applicants submit that the present application is in complete condition for allowance and favorable action is therefore respectfully requested. Should any issues remain after consideration of this response, however, then Examiner Lazorcik is invited and encouraged to telephone the undersigned at his convenience.

Respectfully submitted,

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